

ESTTA Tracking number: **ESTTA227327**

Filing date: **07/30/2008**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	The TJX Companies, Inc.
Granted to Date of previous extension	07/30/2008
Address	770 Cochituate Road Framingham, MA 01701 UNITED STATES
Attorney information	Brian M. Davis Alston & Bird LLP Bank of America Plaza 101 S. Tryon Street, Suite 4000 Charlotte, NC 28280 UNITED STATES brian.davis@alston.com Phone:(704) 444-1000

### Applicant Information

Application No	77301887	Publication date	04/01/2008
Opposition Filing Date	07/30/2008	Opposition Period Ends	07/30/2008
Applicant	Barr, Denise Marie 242 Corral Drive Dayton, NV 89403 UNITED STATES		

### Goods/Services Affected by Opposition

Class 018. All goods and services in the class are opposed, namely: Travel bags; Multi-purpose purses; Purses
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### Grounds for Opposition

The mark is merely descriptive	Trademark Act section 2(e)(1)
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Attachments	IT Bag-NOP.pdf ( 4 pages )(128124 bytes )
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## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Brian M. Davis/
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Name	Brian M. Davis
Date	07/30/2008

TRADEMARK

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of Trademark Application

Serial No.: 77/301,887

Filed: October 11, 2007

Trademark: **IT BAG (Stylized)**

(Int. Class 18)

Published: April 1, 2008

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The TJX Companies, Inc.,	)	
	)	
Opposer,	)	
	)	Opposition No. _____
v.	)	
	)	
Denise Marie Barr,	)	
	)	
Applicant.	)	
-----X		

**NOTICE OF OPPOSITION**

The TJX Companies, Inc., a Delaware corporation having a principal place of business at 770 Cochituate Road, Framingham, MA 01701 ("Opposer"), believes that it will be damaged by the registration of the mark shown in Application Serial No.77/301,887, filed October 11, 2007, by Denise Marie Barr, an individual domiciled at 242 Corral Drive, Dayton, NV 89403 ("Applicant"), and hereby opposes the registration of said mark.

As grounds of opposition, it is alleged that:

1. Since long prior to October 11, 2007, the date on which the subject ITU application was filed by Applicant, or the actual date of first use of the IT BAG (Stylized) mark by Applicant (if any such use has been made) ("Applicant's Mark"), Opposer, its predecessors,

subsidiaries, related companies and licensees (“Opposer and its Affiliates”) have been in the retail store business offering for sale a wide array of goods.

2. The term “it bag,” when used in the context of “travel bags, multi-purpose purses; and purses,” the goods in association with which Applicant intends to use or uses the term as described in its application, immediately conveys to consumers and potential consumers that Applicant’s goods are bags or purses that are trendy, fashionable and/or currently in style.

3. As used in Applicant’s Mark, the term “IT BAG” is merely descriptive and has not attained secondary meaning as a source-identifier for Applicant’s goods. Applicant’s Mark immediately conveys information of significant ingredients, qualities, characteristics, features, functions, purposes or uses of the goods with which it is used or is intended to be used.

4. As such, each of the terms of Applicant’s Mark requires disclaimer. Applicant disclaimed the exclusive right to use of the term “bag” in association with bags and purses described in Applicant’s application; however, Applicant did not disclaim the exclusive right to use of the term “it.”

5. Moreover, the stylistic component of Applicant’s Mark is minimal and therefore does not elevate the IT BAG (Stylized) mark as a whole to being distinctive when used in the context of “travel bags, multi-purpose purses; and purses.”

6. Opposer has a real interest in the use of the designation IT BAG for use on or in connection with bags and the registration of Applicant’s Mark, without a disclaimer of each of the terms therein, would interfere with Opposer’s right to the lawful descriptive use of the terms “it” and “bag” to refer to Opposer’s goods, particularly Opposer’s bags and purses that are currently trendy, fashionable and/or in style.

7. Thus, Applicant's application for registration should be refused on the basis that the stylized mark made the subject of this application consists of or comprises a merely descriptive term which has not become distinctive of Applicant's goods without a disclaimer thereof and a minimal stylization that does not elevate the IT BAG (Stylized) mark as a whole to being distinctive.

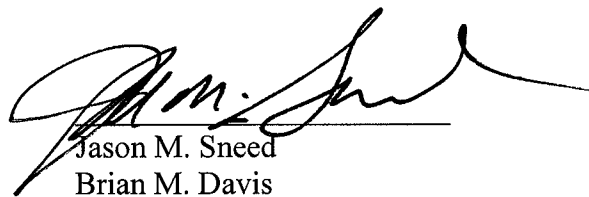
8. Accordingly, Opposer asserts, pursuant to 15 U.S.C. § 1063, that it will be damaged by the issuance of a registration of Applicant's Mark to Applicant as sought in Trademark Application Serial No. 77/301,887.

WHEREFORE, Opposer, The TJX Companies, Inc., prays that the application for registration of Applicant's Mark be rejected, that no registration be issued thereon to Applicant, and that this opposition be sustained in favor of Opposer.

Opposer requests that the \$300 filing fee, together with any additional fees incurred by Opposer in conjunction with this proceeding, be charged to the firm's Deposit Account No. 16-0605.

Date: July 30, 2008

Respectfully submitted,

A handwritten signature in black ink, appearing to read "J.M. Sneed", is written over a horizontal line.

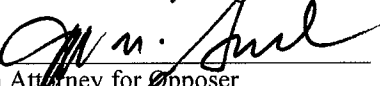
Jason M. Sneed  
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Yelizaveta Klimova-Troxler  
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Our Ref: 046788-344303

**CERTIFICATE OF ELECTRONIC FILING**

Date of Filing: July 30, 2008

I hereby certify that this correspondence is being deposited with the Trademark Trial and Appeal Board via electronic means by filing with The Electronic System for Trademark Trial and Appeals.


  
An Attorney for Opposer  
Date of Signature: July 30, 2008  
LEGAL02/30896203v1

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing Notice of Opposition was served on the following correspondent of record by placing a copy in U.S. Mail, postage prepaid, and addressed as follows:

Denise Marie Barr  
242 Corral Dr.  
Dayton, NV 89403-7340

This the 30<sup>th</sup> day of July, 2008.

  
An Attorney for Opposer